

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division
In Admiralty

NORFOLK AND PORTSMOUTH BELT
LINE RAILROAD COMPANY,

Plaintiff,

v.

M/T MACKENZIE ROSE, her cargo, engines,
boilers, tackle, equipment, apparel, and
appurtenances, etc., *in rem*,

and

COEYMANS MARINE TOWING, LLC,
in personam,

and

CARVER MARINE TOWING, LLC,
in personam,

Defendants.

Civil Action 2:24-cv-00407

MOTION TO INTERVENE

COMES NOW Evanston Insurance Company (“Evanston”), by and through undersigned counsel, and moves to intervene in the above-captioned matter pursuant to Rule 24 of the Federal Rules of Civil Procedure. In support of its Motion, Evanston asserts the following:

1. Plaintiff Norfolk and Portsmouth Belt Line Railroad Company (“Belt Line”) filed the subject action alleging damages sustained when the Mackenzie Rose deviated outside the navigational channel underneath the lift section of the Norfolk and Portsmouth Belt Line Railroad Company Main Line Railroad Bridge (the “Bridge”), which crosses the Southern Branch of the

Elizabeth River between the cities of Chesapeake and Portsmouth Virginia, causing the flotilla it was pushing to collide with the western section of the Bridge (the “Allision”).

2. At all times relevant hereto, Evanston issued a policy of insurance bearing policy number RRP1549-11 (the “Policy”) to Belt Line, effective April 23, 2024, covering property owned by Belt Line, including the Bridge.

3. Belt Line submitted a claim to Evanston (claim number TM29466) for losses incurred on or about June 15, 2024 as a result of the Allision.

4. Pursuant to the Policy, Evanston reimbursed Belt Line in an amount in of \$5,000,000.00, to date, for a portion of the damages incurred by Belt Line as a result of the incident described in paragraphs 7-11 of Plaintiff’s Complaint. Additional payments are anticipated.

5. By virtue of its payments to Belt Line, Evanston is subrogated to the rights of Belt Line to recover from third parties, including the Defendants, to the extent of its payments.

6. Evanston has an interest in the property/transaction that is the subject of Belt Line’s lawsuit and is situated such that the disposition of the action will impair/impede Evanston’s ability to protect its interest. Evanston’s interest is not adequately represented by the existing parties to Belt Line’s lawsuit.

7. As Evanston has only paid a portion of Belt Line’s damages, its proper remedy is to intervene in the lawsuit brought by Belt Line.

8. Counsel for Evanston has consulted with counsel for Plaintiff. Counsel for Plaintiff consents to Evanston’s Motion to Intervene.

9. Evanston’s proposed Intervening Complaint is attached hereto as Exhibit A.

WHEREFORE, Evanston moves this Court for leave to intervene in the above-captioned case.

Respectfully submitted this 6th day of September, 2024.

BUTLER WEIHMULLER KATZ CRAIG LLP

s/ Zachary M. Jett

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of September, 2024, the foregoing *Motion to Intervene* was filed electronically through the Court's CM/ECF electronic filing system, which will automatically deliver electronic notification of the same to the following counsel of record:

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